

NOT FOR PUBLICATION

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

AV DESIGN SERVICES, LLC, *et al.*,

Plaintiffs,

v.

JAMES M. DURANT,

Defendant.

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Civil No. 19-8688 (RBK/KMW)

OPINION

KUGLER, United States District Judge:

Defendant/Counterclaimant James M. Durant brings a host of state law counterclaims against Plaintiffs/Counterclaim Defendants AV Design Services, LLC (“AVDS”), James E. Landy, and Rossen Karadov (collectively, the “AVDS Parties”). Presently before the Court are Durant’s Motion to File an Amended Counterclaim (Doc. No. 33) and the AVDS Parties’ Motion to Dismiss Durant’s Counterclaim (Doc. No. 14).

The AVDS Parties’ filed their Motion to Dismiss on June 11, 2019, and briefing was completed on July 12, 2019. Durant then filed his Motion to Amend on December 19, 2019. However, the AVDS’ parties never filed an opposition brief, nor requested an extension of time to do so. As such, these motions are ripe for decision.

Amendments to pleadings are governed by Federal Rule of Civil Procedure 15(a), which states that leave to amend “shall be freely given as justice so requires.” The Third Circuit has shown a strong liberality in allowing amendments under Rule 15 in order to ensure that claims will be decided on the merits rather than on technicalities. *Dole v. Arco Chem. Co.*, 921 F.2d 484, 487

(3d Cir. 1990). Leave to amend under Rule 15 should be denied only in certain circumstances, such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice, or clear futility of the amendment. *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Fed. Deposit Ins. Corp. v. Bathgate*, 27 F.3d 850, 874 (3d Cir. 1994).

As mentioned above, the AVDS Parties have not filed any opposition to Durant's Motion to Amend. In light of , and hearing no opposition from the AVDS Parties, the Court will **GRANT** Durant's Motion to Amend. Further, the filing of Durant's Amended Counterclaim will moot the AVDS Parties' pending Motion to Dismiss, so that motion will be **DENIED**.

Dated: 03/13/2020

/s/ Robert B. Kugler
ROBERT B. KUGLER
United States District Judge